JD–57–14
Columbus, OH

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
WASHINGTON, DC

DANITE HOLDINGS, LTD
d/b/a DANITE SIGN COMPANY

and

Case Nos. 09–CA–123404
09–CA–124532

SHEET METAL WORKERS INTERNATIONAL
ASSOCIATION, LOCAL UNION NO. 24,
AFL-CIO-CLC (SMWIA)

and

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS,
LOCAL UNION 683, AFL-CIO-CLC

Eric Taylor, Esq.
for the General Counsel.
Ronald L. Mason, Esq.; Aaron T. Tulencik, Esq.
for the Respondent.

DECISION

STATEMENT OF THE CASE

Christine E. Dibble, Administrative Law Judge. This case was tried in Cincinnati, Ohio on July 29, 2014. The Sheet Metal Air and Transportation Workers (SMART) Local 24 and the International Brotherhood of Electrical Workers (IBEW) Local 683 filed charges on February 28 and March 14, 2014, respectively.[1] The General Counsel issued the consolidated complaint on May 6, 2014. DaNite Holdings, Ltd. d/b/a DaNite Sign Company (Respondent) filed a timely

[1] All dates are in 2014, unless otherwise indicated.

answer denying all material allegations. (GC Exhs. 1-A to 1-J)[2]

The consolidated complaint alleges that since about February 26, 2014, Respondent has failed and refused to furnish the Unions with the following information for all unit employees covered under the collective-bargaining agreement (CBA): employee name, address, date of hire, current wage, cost of insurance, and employee portion of insurance.[3]

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent is a limited liability company with an office and place of business in Columbus, Ohio. At all material times, Respondent purchased and received at its Columbus, Ohio facility goods and materials valued in excess of $50,000 directly from points outside the State of Ohio. Respondent admits, and I find, that at all material times it has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

At all material times the SMART and IBEW have been labor organizations within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. OVERVIEW OF RESPONDENT'S OPERATION

Respondent, a limited liability company, manufactures, installs, and repairs commercial electronic signs at its facility in Columbus, Ohio. Respondent's production facility and administrative offices are located in the same building. In 2007, Timothy McCord (McCord), owner and president of DaNite Holdings, Ltd., bought the company as an asset purchase from the prior owner, Cal Lutz. In 2010, McCord purchased the company's building and land.

SMART and IBEW were established Unions at the facility when McCord purchased the company. He retained many of the employees who worked for the previous owner. At the time McCord purchased the company, there was not a current CBA in place. Subsequently, Respondent and the Unions negotiated a CBA that is effective from March 1, 2003 through February 28, 2016. (GC Exh. 2.)

[2] Abbreviations used in this decision are as follows: "Tr." for transcript; "GC Exh." for General Counsel's exhibit; "R. Exh." for Respondent's exhibit; "CU Exh." for Charging Union's exhibit; "ALJ Exh." for administrative law judge's exhibit; "Jt. Exh." for joint exhibit; "GC Br." for General Counsel's brief; "R. Br." for Respondent's brief; and "CU Br." for Charging Union's brief. My findings and conclusions are based on my review and consideration of the entire record.

[3] This allegation is alleged in par. 7(c) of the consolidated complaint.

B. Union's February 10, 2014 Request for Information

In a union meeting on or about January 27, John Buck (Buck), a bargaining unit member, announced that his paystub contained an unexplained healthcare related charge. Maurice Durham (Durham), SMART's business representative and Dennis Mullen (Mullen), IBEW's business representative were both in attendance. After Durham and Mullen talked about Buck's announcement, they decided to submit a joint request for information to Respondent for clarification about whether Respondent or employees were responsible for paying for the new charge. (Tr. 55-57.) On February 10, Mullen wrote a letter to Respondent, on behalf of both Unions, requesting the following information on "all employees covered under the collective bargaining agreement": name, address, date of hire, current wage, cost of insurance, and employee portion of insurance. Mullen requested that Respondent provide the information by February 21. (GC Exh. 3.) By email to Mullen dated February 26, Respondent provided the Unions with the information from employees who consented to its release. According to Respondent, however, there were several employees that refused to share all or a portion of the information. (GC Exh. 4.) Therefore, Respondent provided the Unions with redacted copies of some of the information they requested. (Tr. 92.) Mullen forwarded Respondent's reply to Durham. Durham and Mullen decided to file a charge with the NLRB after discussing their need for the complete information. On February 28, Durham filed a charge on behalf of SMART; and Mullen filed a charge with the NLRB for IBEW on March 14. (GC Exhs. 1-A, 1-C.) McCord first received notice of the charge filed by SMART and later was notified of the IBEW charge.

C. Ongoing Efforts to Secure the Information

On or about March 24, Mullen contacted McCord by telephone to discuss getting all of the requested information. McCord recorded the conversation without Mullen's knowledge. Mullen explained to McCord that he needed the information on all of the hourly employees because he was "conducting an audit." (Tr. 65.) McCord told him that he did not understand why there was a problem with the information he provided to the Unions because it was the same response he had given to them in the past, without objection, when the Unions had requested similar information. (Tr. 62-64.) McCord suggested that the Unions submit a letter to be shared with the employees assuring them that the information they released would be safeguarded by the Unions. Subsequently, "the Union" left McCord a voicemail message that "they were going to provide a letter to try to ease the privacy concerns of some of the employees." (Tr. 114.) McCord received a letter signed by Mullen assuring him that the employees' information would only be used to audit the CBA and would not be shared with anyone else. Consequently, the Unions' letter was shared with each employee that had not fully released their information, and they were again asked if they wanted to provide more information to the Unions. Several employees agreed to give the Union more or all of the requested information, but some employees continued to balk at the release of any of their information. (R. Exh. 12.) Based on the additional information the employees allowed Respondent to share with the Unions, on April 7, Respondent forwarded this information to the Unions. (GC Exhs. 13; R. Exhs. 12.) Following the Unions' receipt of the materials, the record does not contain evidence of any further contact between the parties about the information request. (R. Exh. 14.) As of the date of the hearing in this matter, the Respondent has not fully provided the Unions with the requested information.

III. Discussion and Analysis

A. Legal Standards

Section 8(a) (5) of the Act mandates that an employer must provide a union with relevant information that is necessary for the proper performance of its duties as the exclusive bargaining representative. *NLRB v. Truitt Mfg. Co*. 351 U.S. 149, 153 (1956); *Detroit Edison v. NLRB,* 440 U.S. 301, 303 (1979). "… [T]he duty to bargain unquestionably extends beyond the period of contract negotiations and applies to labor-management relations during the term of an agreement." *NLRB v. Acme Industrial Co*., 385 U.S. 432, 436 (1967) Information requests regarding bargaining unit employees' terms and conditions of employment are "presumptively relevant" and must be provided. *Whitesell Corp*., 352 NLRB 1196, 1197 (2008), adopted by a three-member Board, 355 NLRB 649 (2010), enfd. 638 F.3d 883 (8th Cir. 2011); *Southern California Gas Co*., 344 NLRB 231, 235 (2005). If the requested information is not directly related to the bargaining unit, the information is not presumptively relevant, and the requesting party has the burden of establishing the relevance of the requested material. *Disneyland Park*, 350 NLRB 1256, 1257 (2007); *The Earthgrains Company*, 349 NLRB No. 34 (February 22, 2007).

The standard for establishing relevancy is the liberal, "discovery-type standard." *Alcan Rolled Products*, 358 NLRB No. 11, slip op. at 4 (2012), citing and quoting applicable authorities. In *Leland Stanford Junior University*, 307 NLRB 75, 80 (1992), the Board summarized its application of these principles as follows:

> [T]he Board has long held that Section 8(a)(5) of the Act obligates an employer to furnish requested information which is potentially relevant to the processing of grievances. An actual grievance need not be pending nor must the requested information clearly dispose of the grievance. It is sufficient if the requested information is potentially relevant to a determination as to the merits of a grievance or an evaluation as to whether a grievance should be pursued. *United Technologies Corp*., 274 NLRB 504 (1985); *TRW, Inc*., 202 NLRB 729, 731.

The requested information does not have to be dispositive of the issue for which it is sought, but only has to have some relation to it. *Pennsylvania Power & Light Co*., 301 NLRB 1104, 1104–1105 (1991). The Board has also held that a union may make a request for information in writing or orally. Further, if an employer fails to respond timely to a request for information, the union does not need to repeat the request. *Bundy Corp*., 292 NLRB 671, 672 (1989).

B. Respondent's Refusal of the Union's February 26, Request for Information

The General Counsel alleges that Respondent violated Section 8(a)(5) and (1) of the Act when on or about February 26, 2014, Respondent failed and refused to provide the Unions with relevant and necessary information related to employees' contact information, wages, and benefits. Respondent argues that it is not obligated to provide the information because it is confidential and/or sensitive, and portions of the request are not relevant. Further, Respondent

contends it fulfilled its statutory obligation by seeking ways to accommodate the Unions' request without violating employees' privacy. Respondent also implies that the Unions were not entitled to the information on all hourly production employees because they only represented the dues paying members; and based on past practice the Unions waived their rights to the information.

I find that the information sought by the Unions is presumptively relevant to the performance of its statutory obligations and that Respondent has failed to establish a defense justifying its refusal to furnish the requested information.

1. Relevancy of information

The Board has consistently held that certain information is presumptively relevant. "It is well settled that information concerning names, addresses, telephone numbers, as well as wages, hours worked, and other terms and conditions of employment of unit employees is presumptively relevant…" Bryant & Stratton Business Institute, 323 NLRB 410 (1997); see also, *Georgetown Holiday Inn,* 235 NLRB 485 (1978). (names and addresses of unit employees, like wage data, are presumptively relevant to a union's role as bargaining agent. No showing of particularized need required.); *Deadline Express*, 313 NLRB 1244 (1994). Employer and employee paid insurance premiums and employee seniority and hire dates are likewise presumptively relevant. See *Dyncorp/Dynair Services*, 322 NLRB 602 (1996).

Although Respondent does not explicitly refute the relevancy of the requested information, in its April 7 response to the Unions, Respondent implies that the request for employee names is not relevant because it is an "open shop" company. (R. Exh. 13.) Since the requested information relates to wages, benefits, contact information, and other terms and conditions of employment, it is presumptively relevant and the burden is on the Respondent to rebut the relevancy. *Leland Stanford Junior University*, supra at 80.

Based on Board precedent, the Unions' request clearly covers matters that are presumptively relevant. *Bryant & Stratton Business Institute*, at 410. Durham and Mullen credibly testified that they needed the information to ensure that Respondent was adhering to the CBA on wages and benefits. Durham noted that they wanted clarification on who was responsible for paying the new healthcare charge that appeared on employees' paychecks; and to ensure compliance with the wage provision in the CBA. (Tr. 22-23, 55-57.) Mullen testified the Unions made the information request, "…because a question arose about healthcare. But also, I need that information. I have no idea what anybody makes in that shop. And there are contractual wage raises in this agreement. And I have no idea if it's being followed. So I need that information in order to do my job." (Tr. 53.) He also testified that he needed contact information for both dues-paying and non dues-paying employees because he is required to represent all of the workers. Consequently, Mullen continued, "…if an issue has come up in this audit I need to be able to get a hold of those individuals and clarify what's actually happening there." (Tr. 54-55.)

I find that the requested information is relevant and necessary for the Unions to effectively monitor and enforce the terms of the CBA. The Unions had a statutory duty to investigate its member's (Buck) claim that Respondent was violating the terms of the CBA. The Board has held that the union is allowed to reasonably rely on the observations of bargaining unit

employees in suspecting violations of the CBA and thus asking for information from the employer. *Walter N. Yoder & Sons, Inc.*, 270 NLRB 652, 655 fn. 6, enfd. in relevant part 754 F.2d 531, 534 (4th Cir. 1985). The Board has also held that specific violations of the CBA are not required, nor must information that triggered the information request be "accurate, non-hearsay, or even ultimately reliable". *W-L Molding Co*., 272 NLRB 1239, 1240 (1984); *Public Service Electric & Gas Co*., 323 NLRB 1182, 1186, 1188 (1997). The Union is only required to show that it had a reasonable basis for suspecting possible discriminatory conduct by the Respondent. *Meeker Cooperative Light and Power*, 341 NLRB 616 (April 27, 2004). Based on Mullen's and Durham's credible and uncontradicted testimony about Buck's assertion, I find that the Unions had a right to the information in order to investigate the validity of Buck's complaint and whether a grievance should be filed or other action taken to protect employees' rights. *New Presbyterian Hospital*; 354 NLRB No. 5 (2009); *Beth Abraham Health Services*, 332 NLRB 1234 (2000); *Acme*, 385 at 437.

Further, the Unions' request for the names and contact information for all hourly production employees is relevant because it enables the Unions to communicate with those employees about issues that arise regarding the enforcement of the CBA, contract negotiations, and other matters that affect the terms and conditions of their employment. Access to the information allows the Unions to ensure that Respondent is consistently implementing the terms of the CBA's provisions regarding wage rates and insurance premiums contributions. Likewise, the information requested in this matter is relevant and necessary because it enables the Unions to make a determination on whether to file a grievance on behalf of members who might have unknowingly been the victim of discriminatory treatment. These are legitimate functions of the Unions and the requested information is necessary for them to fulfill their duties. *United Technologies Corp*., 274 NLRB 504 (1985); *TRW, Inc*., 202 NLRB 729, 731(1973).

2. Confidential Information

Respondent further defends its position by arguing it was justified in not providing the information because it was confidential and/or private and some of the employees did not want the information released to the Unions. In addition, Respondent posits that the Unions failed to respond to Respondent's attempts to accommodate their need for the information. I reject the Respondent's defense on all counts.

It is well settled law that the party asserting confidentiality has the burden of proof. *Postal Service*, 356 NLRB No. 75 (2011); *Detroit Newspaper Agency*, supra; *Northern Indiana Public Service Co*., 347 NLRB, 211 (2006). Even assuming that Respondent meets its burden, it cannot simply refuse to furnish the information, but rather must engage in accommodative bargaining with the Union to seek a resolution that meets the needs of both parties. In *Alcan Rolled Products*, supra at 15, the Board explained:

> Confidential information is limited to a few general categories that would reveal, contrary to promises or reasonable expectations, highly personal information. *Detroit Newspaper Agency,* 317 NLRB 1071, 1073 (1995). Such confidential information may include "individual medical records or psychological test results; that which would reveal substantial proprietary information, such as trade secrets; that which could reasonably be expected to lead to harassment or retaliation, such as the identity of witnesses; and that

which is traditionally privileged, such as memoranda prepared for pending lawsuits." Id. Additionally, the partying asserting the confidentiality defense may not simply refuse to furnish the requested information, but must raise its confidentiality concerns in a timely manner and seek an accommodation from the other party. Id. at 1072.

I find that Respondent has failed to sustain its burden of proving that the requested information is confidential under Board law. Respondent's argument appears to be that the information is confidential because it decided it was confidential. Unfortunately for Respondent, the record contains no evidence that Respondent had a legitimate and substantial confidentiality interest. Respondent's only argument is that it had established a past practice of refusing to give the Unions the type of information requested, therefore it must be confidential. There is no Board or Court precedent to support Respondent's argument on this point. Respondent cites *U.S. Postal Service*, 2013 NLRB LEXIS 313, *17 for the proposition that the Postal Service was not obligated to furnish indentifiable test scores as the Postal Service could have complied with its statutory duty by merely furnishing anonymous data enabling the union to determine whether management had adhered to the parties' CBA. However, the case is apposite to the facts at issue. *U.S. Postal Service* involved proprietary test scores in which the employer was able to show it had legitimate and substantial confidentiality concerns regarding the information sought by the union. In the case at hand, Respondent failed to even establish that the information sought fell within a "few general categories that would reveal, contrary to promises or reasonable expectations, highly personal information." Id. at 15.

Second, the Board and Courts do not support Respondent's argument that an employee's consent is required before releasing their personal information to the unions. If such were the case, the union's right to enforce most provisions of the CBA would depend on the desires of bargaining unit employees. The union's right to obtain information would be controlled by the desires of employees. This is not an outcome envisioned by the Act. The union is empowered by the Act with enforcing Respondent's obligations under the CBA through the grievance process or any other legal means. To accept Respondent's argument would be to strip the unions, for all practical purpose, of its statutory duties as the exclusive bargaining representative of unit employees and its powers to enforce violations of the CBA. *United Graphics, Inc.*, 281 NLRB 463, 465 (1986) (the Board held that information presumptively relevant to the union's role as bargaining agent must be provided to the union as it "relates directly to the policing of contract terms."). The General Counsel correctly noted in its brief, "The Board and Courts have held that an employer's notification to employees that it would furnish information if they did not object, and withholding information pertaining to those employees who did object, constitutes a refusal to bargain. *Utica-Observer Dispatch, Inc.*, 111 NLRB 58 (1955); *Utica-Observer Dispatch v. NLRB,* 229 F.2d 575 (2d Cir. 1956)." The Board noted in *Utica-Observer Dispatch*, "The right of a collective-bargaining representative to wage data cannot be made contingent upon the consent of the individual employees, any more than it can be made contingent upon the consent of anyone else. Otherwise, the right becomes an empty one which is controlled by other persons. The right must be, and is, certain to enable the union to perform properly its function as the collective-bargaining representative of the employees." Supra, at 64.

Even assuming the information at issue met the standard for establishing that it was confidential, Respondent has failed to show that it engaged in accommodative bargaining with the unions. It is undisputed that Respondent's initial response to the unions' information request

was to send partial information with the excuse that some of the employees did not want to consent its full release. Shortly thereafter, the unions filed separate charges with the NLRB. During this interim period (the time between Respondent's refusal to fully provide the requested information and the Unions filing charges with the NLRB), there is no evidence that Respondent made any attempts at engaging the unions in accommodative bargaining.

At the hearing, Respondent moved to admit evidence of the parties' efforts at resolving the dispute post-filing of the NLRB charges. Initially, I admitted the evidence over the General Counsel's objections. However, after careful review of the record, the General Counsel's objections, Respondent's response, and Rule 408 of the Federal Rules of Evidence (FRE), I find that all of the testimony and documentation I previously allowed into evidence involving settlement negotiations are rejected.[4] Respondent argues that this evidence proves that it was simply trying to engage the unions in accommodative bargaining to arrive at a resolution. There are two problems with this argument. First, it has been clearly established that the information sought by the unions was not confidential and did not fall within any of the exceptions. Second, Mullen's telephone conversation with McCord on March 24 is the unions' efforts to obtain the information in lieu of proceeding with the NLRB action. Further, the plain language of the letter McCord sent to the unions dated April 7 is proof that it was a settlement offer and therefore is rejected pursuant to Rule 408 of the FRE. Contrary to the argument posited by counsel for Respondent, Respondent's post-filing actions were simply lightly veiled attempts at negotiating a settlement with the unions to drop the unfair labor practice charges brought against it.

3. Respondent's Argument that the Unions' Prior Act Constitutes a Waiver

Respondent argues that the complaint should also be dismissed because, "[T]he Company was merely following past practice in determining how much, if any, confidential information would be submitted to the charging parties." (R. Br. 7.) Respondent notes that in December 2011, the Unions made similar information requests and Respondent likewise provided the Unions only with the information that employees consented to release. Respondent is seemingly implying that because the Unions did not object to Respondent's response in 2011, they have waived their right to object in the instant matter. The argument, however, is contrary to Board law. The Board requires a waiver of a union's statutory right to be clear and unmistakable. *Metropolitan Edison Co. v. NLRB*, 460 U.S. 693 (1983); *Timken Roller Bearing Co*., 138 NLRB 15, 16 (1962). (1983) "A clear and unmistakable waiver may be found in the express language and structure of the collective-bargaining agreement or by the course of conduct of the parties. The burden is on the party asserting waiver to establish that such a waiver was intended." *Leland Stanford Junior University*, supra. See also, *NLRB v. New York Telephone Co*., 930 F.2d 1009 (2d Cir. 1991), enfg. 299 NLRB 44 (1990); *United Technologies Corp*., supra.

There is no evidence, nor does Respondent argue, that the Unions explicitly waived their right to request and receive relevant and necessary information from Respondent. Neither does

[4] The following testimony is ruled inadmissible: 62 lines 5-19; 63 lines 12-23; 64 lines 1-9; 64 lines 23-25; 65-66 line 4; 114 lines 6-25; 115 lines 1-14; 123- lines 9-13, 123 lines 23-25; 124 to 125 line 3; 128-128. Likewise, GC Exh. 13, and R. Exhs. 8, 11, 13 and 14 are rejected. In the event of an appeal of my decision, all rejected exhibits are placed in the rejected exhibit folder for review by the Board and/or the appropriate federal appellate court.

the evidence prove that the Unions' conduct in December 2011 constituted a waiver of its statutory right to obtain the presumptively relevant information at issue in this case. Mullen and Durham provided undisputed testimony that in December 2011 the Unions did not insist on all the information it requested because it was part of a negotiating strategy as opposed to the present matter which is contract compliance. Regarding the December 2011 information request Mullen testified, "During the course of negotiations it's not uncommon for either side to request a lot of information. I do it all the time in negotiations. I don't always get everything I asked for for negotiating purposes. So I requested the information. It's not uncommon for me not to get all the information I request. So I didn't challenge it." (Tr. 68.) In *General Motor Corporation, Inc., v. NLRB*, 700 F.2d 1083 (C.A. 6, 1983); enforcing, *General Motor Corporation*, 257 NLRB 1068 (1981), the Court noted that a union's previous failures to exercise its statutory right to certain information did not weaken that right, nor did it constitute a constructive waiver of the right. Given the lack of a clear and express waiver in the CBA or elsewhere, I find that the evidence shows Respondent has failed to sustain its burden.

4. Respondent's Implied Open Shop/Members Only Argument

It is undisputed that Respondent's company is an open shop. At the hearing, Respondent elicited testimony and produced documents in an attempt to cast doubt on whether the Unions were the joint exclusive bargaining representatives of all Respondent's hourly production employees or just the dues-paying members. If it is the latter, Respondent appears to argue that the Unions are only entitled to information pertaining to their members. Sadly, Respondent's argument (albeit an implied one) must fail. There is no evidence that Respondent treated dues-paying members and other production employees differently in granting healthcare benefits, wage increases, vacation time and other terms and conditions of employment. In *DaNite Holdings, Ltd. d/b/a Danite Sign Company*, 356 NLRB No. 124, 7 (2011), the Board upheld the administrative law judge's finding that "Respondent granted de facto recognition to the Unions as bargaining representative of all its production employees." Based on the evidence in this case, I agree. Further, Durham and Mullen accurately testified that [the Board and Court precedent] requires that in an "open shop" facility they are obligated to fairly represent all unit employees both union and nonunion. *The Wallace Corporation v. N.L.R.B.*, 323 U.S. 248, 255-256 (1944); *Peerless Tool and Engineering Co.*, 111 NLRB 853, 858 (1955), enfd. sub nom. *N.L.R.B. v. Die and Tool Makers Lodge No. 113, International Association of Machinists, AFL*, 231 F.2d 298 (C.A. 7, 1956), cert. denied 352 U.S. 833. Consequently, the Unions are entitled to relevant information pertaining to all the unit employees.

Based on the evidence, I find that Respondent failed to rebut the presumptive relevance of the information requested by the Unions. Likewise, the record does not establish that the requested information was confidential or that the Unions waived their statutory right to receive the information. Accordingly, I find the Respondent's refusal to provide the requested information violates Section 8(a)(5) and (1) of the Act.

CONCLUSIONS OF LAW

1. The Respondent, DaNite Holdings, Ltd. d/b/a DaNite Sign Company, is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Sheet Metal Air and Transportation Workers (SMART) Local 24 and the International Brotherhood of Electrical Workers (IBEW) Local 683 are labor organizations within the meaning of Section 2(5) of the Act.

3. By failing and refusing to fully provide presumptively relevant information requested by the Unions in writing on or about February 10, 2014, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

4. The above violation is an unfair labor practice that affects commerce within the meaning of Section 2(6) and (7) of the Act.

5. The Respondent has not violated the Act except as set forth above.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

The Respondent will be ordered to produce the requested and relevant information, and post and communicate by electronic post to employees the attached Appendix and notice.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[5]

ORDER

The Respondent, DaNite Holdings, Ltd. d/b/a DaNite Sign Company, in Columbus, Ohio its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to provide the Unions, Sheet Metal Air and Transportation Workers (SMART) Local 24 and the International Brotherhood of Electrical Workers (IBEW) Local 683,

[5] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

information requested that is necessary and relevant to their roles as the exclusive representatives of the employees in following unit:

> All hourly production employees at DaNite Holdings, Ltd. d/b/a DaNite Sign Company located in Columbus, Ohio excluding employees in a supervisory or confidential capacity, and all employees on the salaried payroll.

(b) In any like or related manner, interfering with, restraining or coercing its employees in the exercise of the rights guaranteed to them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the purposes and policies of the Act.

(a) Within 14 days from the date of the Board's Order, furnish the Union with all information it requested in writing on February 10, 2014.

(b) Within 14 days after service by the Region, post at its facility in Columbus, Ohio copies of the attached notice marked "Appendix."[6] Copies of the notice, on forms provided by the Regional Director for Region 9, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees and members are customarily posted. In addition to physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 26, 2014.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. September 26, 2014

Christine E. Dibble (CED)
Administrative Law Judge

6 If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT WE WILL NOT refuse to bargain collectively with the Unions (SMART and IBEW) by failing and refusing to furnish them with requested information that is relevant and necessary to the Unions' performance of their function as the collective bargaining representatives of the employees in the following unit:

All hourly production employees at DaNite Holdings, Ltd. d/b/a DaNite Sign Company located in Columbus, Ohio excluding employees in a supervisory or confidential capacity, and all employees on the salaried payroll.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed to you by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, furnish the Union with the information it requested on February 10, 2014.

WE WILL, upon request, bargain collectively and in good faith with the Sheet Metal Air and Transportation Workers (SMART) Local 24 and the International Brotherhood of Electrical Workers (IBEW) Local 683 as the exclusive collective-bargaining representatives of the unit.

DaNITE HOLDINGS, LTD d/b/a DaNITE SIGN COMPANY
(Employer)

DATED: _____ BY_____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

John Weld Peck Federal Building
550 Main Street, Room 3003
Cincinnati, Ohio 45202-3271
Telephone: (513) 684-3686
Fax: (513) 684-3986
TTY: (513) 684-3619
Hours of Operation: 8:30 a.m. to 5:00 p.m. ET

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/09-CA-123404 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (313) 226-3200.